

ESTTA Tracking number: **ESTTA685260**

Filing date: **07/22/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Bear U.S.A., Inc.
Granted to Date of previous extension	07/22/2015
Address	460 Bergen Boulevard Suite 370 Palisades Park, NJ 07650 UNITED STATES
Attorney information	Timothy J. Kelly FITZPATRICK, CELLA, HARPER & SCINTO 1290 Avenue of the Americas New York, NY 10104 UNITED STATES tkelly@fchs.com, epagan@fchs.com, docketing@fchs.com Phone:2122182100

### Applicant Information

Application No	86420873	Publication date	03/24/2015
Opposition Filing Date	07/22/2015	Opposition Period Ends	07/22/2015
Applicant	Wolfe, Arthur 12003 Wikel Road Milan, OH 44846 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic footwear for wrestlers; Headgear, namely, hats and caps


### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3038588	Application Date	02/26/1996
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	BEAR		
Design Mark			


Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1993/05/00 First Use In Commerce: 1993/11/00 all purpose athletic, sport and duffel bags Class 025. First use: First Use: 1993/05/00 First Use In Commerce: 1993/11/00 clothing, namely parkas, jackets, shirts, hats, headbands and footwear


U.S. Registration No.	2286759	Application Date	04/07/1998
Registration Date	10/12/1999	Foreign Priority Date	NONE
Word Mark	BABY BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1999/01/01 First Use In Commerce: 1999/01/01 Clothing, namely, parkas, jackets, sweatshirts and shorts		

U.S. Registration No.	2559155	Application Date	04/07/1998
Registration Date	04/09/2002	Foreign Priority Date	NONE
Word Mark	BABY BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2001/08/00 First Use In Commerce: 2001/08/00 Clothing, namely, [ footwear, ] shirts,hats, [ pants, socks, ] gloves, mittens, scarves and caps		


U.S. Registration No.	2556355	Application Date	04/07/1998
Registration Date	04/02/2002	Foreign Priority Date	NONE
Word Mark	BABY BEAR		
Design Mark			


Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2001/10/00 First Use In Commerce: 2001/10/00 Clothing, namely, parkas, shirts, hats,sweatshirts, jackets [ , pants, shorts,socks, gloves, mittens, scarves and caps ]

U.S. Registration No.	2285696	Application Date	01/24/1995
Registration Date	10/12/1999	Foreign Priority Date	NONE
Word Mark	BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/09/00 First Use In Commerce: 1994/09/00 clothing, namely, cold weather hats, headbands, and footwear (excluding golf shoes)		

U.S. Registration No.	2282358	Application Date	01/24/1995
Registration Date	10/05/1999	Foreign Priority Date	NONE
Word Mark	BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/09/07 First Use In Commerce: 1994/12/17 clothing, namely parkas and jackets		

U.S. Registration No.	2559096	Application Date	10/10/1997
Registration Date	04/09/2002	Foreign Priority Date	NONE
Word Mark	BEAR USA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2001/04/00 First Use In Commerce: 2001/04/00 All purpose athletic, sport and duffel bags


U.S. Registration No.	2700829	Application Date	02/26/1996
Registration Date	03/25/2003	Foreign Priority Date	NONE
Word Mark	BEAR USA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 Parkas and jackets		

U.S. Registration No.	2997379	Application Date	03/26/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE
Word Mark	BEAR USA		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 Clothing, namely parkas and jackets

U.S. Registration No.	2384568	Application Date	04/23/1998
Registration Date	09/12/2000	Foreign Priority Date	NONE

Word Mark	BEAR MOUNTAIN
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1993/06/12 First Use In Commerce: 1993/06/12 Clothing, namely parkas and vests
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U.S. Registration No.	2276955	Application Date	08/02/1994
Registration Date	09/14/1999	Foreign Priority Date	NONE

Word Mark	BEAR U.S.A., INC.
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1994/09/07 First Use In Commerce: 1994/10/17 clothing, namely parkas and jackets
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Attachments	75978499#TMSN.png( bytes ) 75463799#TMSN.png( bytes ) 74625219#TMSN.png( bytes ) 74625218#TMSN.png( bytes ) 75371191#TMSN.png( bytes ) 75983105#TMSN.png( bytes ) 78391423#TMSN.png( bytes ) 75472696#TMSN.png( bytes ) 74802359#TMSN.png( bytes ) Notice of Opposition - LOGIE BEAR.pdf(372043 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tjk/
Name	Timothy J. Kelly
Date	07/22/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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BEAR U.S.A., INC.,	:	
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Opposer,	:	
	:	
v.	:	Opposition No.:
	:	Serial No.: 86420873
ARTHUR WOLFE,	:	
	:	
Applicant.	:	
-----X	:	

**NOTICE OF OPPOSITION**

In the matter of pending trademark application Serial No. 86420873, for the mark “Logie Bear” (hereinafter “Applicant’s Alleged Mark”) filed in multiple International Classes, including International Class 25 for “Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic footwear for wrestlers; Headgear, namely, hats and caps” (hereinafter “Applicant’s goods”), by Arthur Wolfe, an individual with an address at 12003 Wikel Road, Milan OH 44846 (hereinafter “Applicant”), and published in the Trademark Official Gazette of March 24, 2015, Opposer Bear U.S.A., Inc., a corporation organized and existing under the laws of the State of New Jersey and having a place of business at 460 Bergen Boulevard, Suite 370, Palisades Park, New Jersey 07650 (hereinafter “Bear” or “Opposer”), believes it will be damaged by the registration of such mark for the International Class 25 goods set forth in the published application, and hereby opposes same. As grounds for its opposition, Bear alleges as follows:

1. Opposer, Bear U.S.A., Inc., is a corporation organized and existing under the laws of the State of New Jersey and having a place of business at 460 Bergen Boulevard, Suite 370, Palisades Park, New Jersey 07650.

2. Opposer is and has been for several years an internationally known manufacturer and distributor of clothing, footwear and other items.

3. Since at least as early as 1993, and well prior to the filing date of the intent-to-use application opposed herein, Opposer Bear has used, advertised and promoted in interstate commerce its distinctive "BEAR" trademarks on or in connection with its products, including its clothing products. Among the trademarks used, advertised and promoted by Bear over the years are: BEAR, BEAR MOUNTAIN, BABY BEAR, BEAR U.S.A., and BEAR U.S.A. and design. These trademarks (together with the others identified, *infra*) are collectively referred to as the "BEAR Trademarks".

4. Bear has sold many millions of dollars worth of clothing, footwear and other products under its BEAR Trademarks, and has spent many tens of thousands of dollars advertising and promoting its BEAR Trademarks and the products sold under those trademarks in interstate commerce and throughout the world.

5. By virtue of Opposer Bear's aforesaid advertising, promotion and extensive sales, Bear has acquired valid and enforceable trademark rights in its distinctive BEAR Trademarks for its products, and Opposer's BEAR Trademarks have come to represent an extremely valuable goodwill, which is owned by Bear. Further, as a result of the foregoing sales, advertising and promotion, the distinctive BEAR Trademarks have become famous and exclusively associated with Opposer, and Opposer has acquired an



eminent reputation and valuable goodwill in them. Such fame and eminent reputation pre-date the filing date of the intent-to-use application opposed herein.

6. In addition to Bear's common law rights in its BEAR Trademarks, Bear is also the owner of a number of Federal Registrations for its trademarks. These registrations include, among others, Registration No. 3,038,588 for the mark BEAR; Registration Nos. 2,286,759 (incontestable and renewed), 2,559,155 (incontestable and renewed), and 2,556,355 (incontestable and renewed) for the mark BABY BEAR; Registration No. 2,285,696 for the mark BEAR and Design (incontestable and renewed); Registration No. 2,282,358 for the mark BEAR and Design (incontestable and renewed); Registration Nos. 2,559,096 (incontestable and renewed), 2,700,829 (incontestable and renewed), and 2,997,379 (incontestable) for various BEAR U.S.A. and Design marks; Registration No. 2,384,568 for the mark BEAR MOUNTAIN (incontestable and renewed); and Registration No. 2,276,955 for the mark BEAR U.S.A., Inc. (incontestable and renewed). The aforementioned registrations also comprise the "BEAR Trademarks." Opposer will make status and title copies of the foregoing registrations of record during its Testimony Period.

7. Because the BEAR Trademarks and the goods sold, advertised and promoted by Bear under those trademarks are exclusively associated with Bear, the registration and use by Applicant, for the International Class 25 goods identified in the application opposed herein, of the mark "Logie Bear" – which mark incorporates Opposer's registered trademark BEAR and thus the primary source-identifying element of Bear's BEAR Trademarks – will inevitably cause confusion in the minds of the public, leading the public to believe that Applicant's clothing products emanate from Opposer or

that Applicant is in some way associated with or connected to Opposer, when, in fact, no such relationship exists. Further, in view of the similarities between Applicant's and Opposer's marks and the nature of the clothing to be sold by Applicant under its alleged mark on the one hand, and the goods sold by Bear under its BEAR Trademarks on the other, registration of Applicant's Alleged Mark in connection with the International Class 25 goods listed in the application opposed herein is likely to mislead or deceive consumers as to the source, origin or sponsorship of such goods.

8. For the foregoing reasons, Opposer will be damaged by the registration, in International Class 25, of the mark shown in the application opposed herein, because, *inter alia*, the public and the trade will be caused to believe that the Class 25 goods sold under Applicant's Alleged Mark are produced or licensed by Opposer, or are produced by Applicant under a mark confusingly similar to Opposer's BEAR Trademarks, with the authorization, permission or sponsorship of Opposer.

9. For the foregoing reasons, Applicant is not entitled to registration of its alleged mark "Logie Bear" for the International Class 25 goods set forth in the application opposed herein, and is not entitled to the exclusive use thereof.

WHEREFORE, Opposer respectfully requests that this opposition be sustained, and that registration of the mark "Logie Bear" (Serial No. 86420873), in International Class 25, be refused.

Dated: July 22, 2015

Respectfully submitted,

By: 

Timothy J. Kelly  
FITZPATRICK, CELLA, HARPER  
& SCINTO  
1290 Avenue of the Americas  
New York, New York 10104  
(212) 218-2100

Attorneys for Opposer  
Bear U.S.A., Inc.

**CERTIFICATE OF SERVICE**

I, Timothy J. Kelly, hereby certify that on this the 22<sup>nd</sup> day of July 2015, the foregoing Notice of Opposition to United States Trademark Application Serial No. 86420873 in the name of Arthur Wolfe, was served upon Arthur Wolfe (the correspondent identified in the online records at the Trademark Office) at the address set forth below by First Class Mail, postage prepaid:

ARTHUR WOLFE  
12003 WIKEL RD  
MILAN, OHIO 44846-9443



Timothy J. Kelly